



# Missouri Department of Natural Resources

## MINUTES

### MISSOURI SOIL AND WATER DISTRICTS COMMISSION

DNR Conference Center

Jefferson City, Missouri

May 21, 2003

## PLANNING SESSION

**COMMISSION MEMBERS PRESENT:** John Aylward, Elizabeth Brown, Larry Furbeck, Kirby VanAusdall

**EX-OFFICIO MEMBERS:** DEAN THOMAS PAYNE, UNIV. OF MISSOURI: David Baker; **JERRY CONLEY, DEPT. OF CONSERVATION:** Bob Miller

**ADVISORY MEMBERS PRESENT:** SOIL & WATER CONSERVATION PROGRAM: Sarah Fast

**STAFF MEMBERS PRESENT:** Dean Martin, Theresa Mueller, Alice Schultz, Bill Wilson

**OTHERS PRESENT:** STATE OF MISSOURI: ATTORNEY GENERAL'S OFFICE: Harry Bozoian; **OTHERS:** UNIVERSITY OF MISSOURI: Steve Jeanetta

## COMMISSION PLANNING SESSION WITH STEVE JEANETTA

Steve Jeanetta with the University of Missouri facilitated a second planning session with the commission to develop a strategy for how the commission will work in the future. Mr. Jeanetta handed out a recap of what was discussed at the last meeting. Mr. Jeanetta said that he would cover where the commission wanted to go in the future at this meeting.

Mr. Jeanetta briefly reviewed his notes from the last planning session with the commission. He also stated that he had the copy of the tapes and the minutes. The commission noted that a big emphasis had been placed on clean water and Mr. Jeanetta agreed.

The first area addressed was the additional challenges for the commission. One area was the efficient implementation and use of conservation practices and programs and the efficient use of program tax dollars. Another challenge suggested by the commission was the use of better techniques in such things as terrace layouts. The commission concurred that the use of new techniques could save the program money, do a better job, and make the practices more popular and more widely used. It was indicated that the commission needed a way to evaluate its work in order to make sure that practices are working well and not costing more than they should.

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 2

Quantifying soil erosion is also a challenge. Another question was how to reach out to absentee landowners, those that have never installed an erosion-control practice, or those that are not aware of the hazards of soil erosion. It was suggested that the commission might need to adjust goals to make them more realistic. Also, the commission needed to know at what point future efforts would become too costly. Another area of concern was erosion control practices were depreciable items and they become obsolete and worn out and, at some point, the practices needed to be replaced, changed, or redesigned. Another one of the challenges mentioned was the measurement of clean water. When asked, Dean Martin stated that measuring clean water was expensive but the conservation partners were working with universities on some modeling. The commission indicated that it would like to give local districts more control and build on the success of Special Area Land Treatment (SALT) Projects.

The second area that was covered was long term goals. The commissioners indicated what they would personally like to see in the state ten years from now. One item mentioned was the control of chemicals in streams. Currently, some irrigation systems have an attachment that distributes chemicals with the water. It was felt that there was a need to have practices, such as check valves in place that protected wells, to keep chemicals out of the water. Another long-term goal was clear streams with less pollution. The commission felt that there was a need to publicize the successes more efficiently so the public would understand the positive work accomplished by the commission and its partners. Another goal was to have the tools needed to address the issues of the day. Again, the ability of local districts to spend some of their funds the way they felt best suited their respective counties was listed. The commission indicated that it would like to see people educated in the use of conservation practices, some control/rules, and perhaps regulations. It also wanted safe water supplies for drinking and agriculture. Other goals mentioned were property rights, incentives for farmers that practice conservation, and penalties for farmers that did not. The commissioners said they wanted classroom training for children so that they would know and understand good conservation practices. The commission also expressed an interest in farmland protection for Missouri family farms.

The last area covered were themes of the goals, such as the educational aspect of the work done by the commission. It was thought that the public needed to know what the commission was doing and what it hoped to accomplish. Since the commission and the districts work well with other conservation groups to advance conservation practices, they could work to put together a program for the school systems. Research and development and stewardship were the last two themes mentioned.

# **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 3

## **BUSINESS MEETING**

**COMMISSION MEMBERS PRESENT:** John Aylward, Elizabeth Brown, Larry Furbeck, Kirby VanAusdall

**EX-OFFICIO MEMBERS:** DEAN THOMAS PAYNE, UNIV. OF MISSOURI: David Baker; **JERRY CONLEY, DEPT. OF CONSERVATION:** Bob Miller; **LOWELL MOHLER, DEPT. OF AGRICULTURE:** Glenna Burre; **STEPHEN MAHFOOD, DEPT OF NATURAL RESOURCES:** Scott Totten

**ADVISORY MEMBERS PRESENT: SOIL & WATER CONSERVATION PROGRAM:** Sarah Fast; **NRCS:** Roger Hansen; **MASWCD:** Eli Mast

**STAFF MEMBERS PRESENT:** Davin Althoff, Gary Baclesse, Milt Barr, Gorman Bennett, Jim Boschert, April Brandt, LeAnn Bullard, Chris Evans, Noland Farmer, John Forsyth, Rose Marie Hopkins, Gina Luebbering, Dean Martin, Theresa Mueller, Marcy Oerly, James Plassmeyer, Josh Poynor, Jeremy Redden, Ron Redden, Kevin Scherr, Alice Schultz, Judy Stinson, Ken Struempfler, Bill Wilson

**OTHERS PRESENT: DISTRICTS:** BARTON: Ben Reed; BATES: Brad Powell; CHARITON: Brian Sturm; DAVIESS: Thomas Lambert; DENT: Cindy Mannis, William "Bud" Shaw; DOUGLAS: Greg Watkins; FRANKLIN: Laura McKeever; GREENE: Tom Hansen, Deneen Jenkins, Eric Morris, Will Rhodes; LACLEDE: Jimmie Haines, Mary Jo Tannehill; LAFAYETTE: Steve Oetting; LIVINGSTON: Debbie Gudgell; MARIES: Sandy Hutchison; MONROE: Lena Sharp; OREGON: Jeff Lawrence; OSAGE: Jessica Pace; OZARK: Tina Mills; RANDOLPH: Shelly Sumpter; SALINE: Cliff Lackland, Mike Martin; WARREN: Ralph Glosemeyer, Polly Sachs, Tammy Teeter; **STATE OF MISSOURI: ATTORNEY GENERAL'S OFFICE:** Harry Bozoian; **OTHERS:** MASWCD: Kathryn Braden, Peggy Lemons; MLICA: Debbie Dickens, Caelene Lance, Jeff Lance; NRCS: Steve Robbins; **INDIVIDUALS:** Dorothy Hempil, Mike Houston, Roberta Jarboe, Arthur Peuster

### **A. CALL TO ORDER**

After the commission reconvened, Chairman Elizabeth Brown called the meeting to order at the Missouri Department of Natural Resources (DNR) Conference Center in Jefferson City, Missouri, in the Bennett Spring/Roaring River Room at 10:30 AM..

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 4

### **B. MINUTES OF THE LAST MEETING**

Kirby VanAusdall made a motion to approve the minutes of the March 6, 2003 commission meeting as mailed. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **C. APPEALS – COST-SHARE**

#### **1. Saline Soil & Water Conservation District (SWCD): Landowner Appeal of a Board Decision to Deny Cost-share on a DWC-1 Claim**

Marcy Oerly presented an appeal from a landowner in Saline County for cost-share on a DWC-1 water impoundment reservoir. Ms. Oerly summarized the history and documentation for the commission. The board approved the application for the structure in September 2001 and a site pre-construction meeting was held with the landowner and the technician in October. The landowner was given, at his request, a four-month extension in February 2002. On June 6 after a site visit, the technician reported that the structure was not complete and the board approved a second four-month extension on June 14. During August and September, site visits were made and it was determined that the structure did not meet Natural Resources Conservation Service (NRCS) specifications.

The landowner submitted unacceptable check out notes on October 1, 2002. He also turned in various bills and was told that the district needed the hours he had worked on the structure. After informing the district that he did not keep track of his hours, the landowner was told that another time extension would have to be approved in order to meet specifications. On October 2, 2002, the board decided to cancel his application after discussing the prior events including the landowner's unwillingness to make any further corrections to the dam. On October 18, a letter was sent informing the landowner that his practice would expire on October 15, 2002. On October 28, the landowner submitted bills and signed the vendor form and seeding certification worksheet. The technicians found that the structure did not meet specifications and the fence was not adequate at a subsequent site visit requested by the board. The board decided not to support an appeal to the commission at its November meeting and informed the landowner of its decision in a letter mailed on November 26. The landowner requested that the commission overrule the board's decision in a letter received December 17, 2002.

In his letter, the landowner explained that the delays were caused by equipment breakdowns, frozen ground, and continuously flowing water into the draw. The pond was drained and a ditch was cut by the side of the fill so the soil could dry.

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 5

Rain from mid-April through early May, approximately ten to twelve inches of rain, also delayed progress according to the landowner. Program staff was informed that a site visit made May 19, 2003, determined that the structure still did not meet NRCS specifications.

Arthur Peuster, the landowner, appeared before the commission. Mr. Peuster said that he had done the work himself on rebuilding a structure that was constructed in 1968, but had experienced wet weather and breakdowns. He said that he had not received any information on why this structure did not meet NRCS specifications. The fence had not been completed because he was waiting to find out why it did not meet specifications. When asked by the commission, Mr. Peuster reiterated that he had received no information on any issues on his structure.

Cliff Lackland, Saline District Technician, reported that the District Conservationist had documented in his technical notes that the landowner was told what the problems were with the structure on October 8. When asked by the commission, Mr. Lackland said that the conservationist told the landowner that the inlet pipe did not meet specifications and the berm between the overflow and dam had not been constructed. According to the chair of the district board, the landowner was also informed of the situation at the district board meeting. When asked, Roger Hansen agreed that the technical notes covered the deficiencies in the structure. Kirby VanAusdall pointed out that the practice must meet NRCS specifications before cost-share funds could be dispersed. Larry Furbeck agreed.

Larry Furbeck made a motion to support the board's decision and deny cost-share for the water impoundment reservoir. Kirby VanAusdall seconded the motion. A vote was called and failing to receive a unanimous vote, a poll vote was taken. Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion. John Aylward voted against the motion. The motion carried with three votes in favor and one opposed.

Mr. Peuster informed the commission that, due to the commission's vote he would bring litigation.

### **2. Oregon SWCD: Two DSL-2 Practices Started Prior to Board Approval**

Noland Farmer presented an appeal from the Oregon SWCD for cost-share for two landowners on Permanent Vegetative Cover Improvement practices started prior to board approval. The son of the landowner signed on behalf of his father on one of the practices and was the landowner on the other practice.

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 6

Mr. Farmer said that both landowners had completed a DSP-3 in 2000 and 2001 but had not completed a seeding practice since 1994. Samples for the two seeding practices were submitted on January 24, 2003. The planning for the practices was done on January 30 by the technician and landowners. The board's letter stated that the technician informed the landowner that the soil test results had been received and what the field requirements were on February 4. He also told the landowner that the application would be processed promptly. The landowner believed that he could start and felt that he needed to get started as soon as possible because of the February 15 dormant seeding deadline.

The landowner and board signed one seeding application for 29 acres on February 7, 2003, but the seed and fertilizer receipt was dated February 6, 2003. The board approved the claim in the amount of \$450.79 on February 14, 2003. The son signed the application for his father's 7-acre seeding and the board approved it on February 10. The lime, seed, and fertilizer receipt for this practice was dated February 5. The board approved the claim in the amount of \$163.40 on February 14, 2003. The board pointed out that this was a very busy time of the year for both the district clerk and technician. Mr. Farmer briefly reviewed the district's workload during this period. He also reported that a check of the cost-share files to 1989 revealed no previous requests or appeals for practices started prior to board approval.

Larry Furbeck made a motion to approve the board's request for both practices. Kirby VanAusdall seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **D. COST-SHARE REQUEST – DENT SWDC: WOODLAND PROTECTION THROUGH LIVESTOCK EXCLUSION (DFR-5) PRACTICE STARTED PRIOR TO BOARD APPROVAL**

Noland Farmer presented a requested from the Dent SWCD for cost-share assistance on a Woodland Protection through Livestock Exclusion practice completed prior to the board's approval of the application.

The board indicated in a letter that the district technician met with the landowner on September 9, 2002, to discuss the practice and the specifications for the practice. The technician also told the landowner that he would qualify for the fencing practice. On December 4, the landowner inquired about the practice and the technician informed the landowner that staff would not be able to get to his file before the end of the month. On December 30, the landowner informed the district that the fence was completed and asked why he had heard nothing back from the district. A site visit on January 2 showed

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 7

the fence was complete and met NRCS standards and specifications. The board approved an application for 2,750 feet of fencing on February 28 and a claim in the amount of \$687.50 on March 14.

The board indicated that this was the first time the landowner had participated in the cost-share program. The board also pointed out that this was the first instance of a landowner starting a practice prior to board approval since the district technician was hired. Again, Mr. Farmer indicated that a history check showed no previous requests or appeals of this type. The board also indicated that measures had been implemented to ensure this would not happen in the future.

John Aylward made a motion to approve the board's request. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **E. APPEALS – CONTINUED – MONROE SWCD: LANDOWNER APPEAL OF A BOARD DECISION TO DENY COST-SHARE FOR BERM REMOVAL**

Marcy Oerly presented an appeal from a landowner in Monroe SWCD for cost-share on berm removal. Ms. Oerly briefly reviewed commission policy.

She reported that the district board approved the application for 3.1 acres of waterways for an estimated cost-share payment of \$6,534.70 on July 15, 2002. The construction, seeding, and mulching was completed by September 30. After completion, the landowner and the operator, a former chairman of the Monroe SWCD board, were unhappy that the actual waterway, while meeting NRCS specifications, was deeper and the berms higher than expected. The landowner had stated in a letter that she was unaware that they were responsible for the removal of the berms until after the waterways were built.

On November 11, the landowner and the operator asked the board to allow cost-share for berm removal. In a letter dated November 20, the board stated that they denied the request since berm removal was not an eligible component on its Farm Service Agency (FSA) Exhibit 1, berm removal was not a component of the DWP-3 practice in the Monroe district, and waterways in that district were designed for only one foot in height. Ms. Oerly noted that 17 districts in Missouri listed berm removal as an eligible component of the waterway practice and only five of the 17 had actually had cost-share claimed on berm removal in three years.

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 8

Ms. Oerly indicated that the NRCS Area Engineer made a site inspection of this waterway. When asked by the commission, Lena Sharp, the Monroe SWCD District Manager, said that the waterways were constructed while crops were still in the field and the contractor elected to leave the berms rather than destroy the crop. Ms. Sharp said that both the operator and contractor were aware that the district did not allow cost-share on berm removal. She also said that berm removal was not listed on the cost-share application.

The landowner, Roberta Jarboe, said that she had not signed anything that said that she would have to pay for the berm removal and felt that she could not be required legally to do it. She said that originally the operator had wanted a 10-foot waterway and wound up with a 20-foot waterway because the district did not cost-share on 10 feet. According to Ms. Jarboe, she was not informed of the additional 10 feet. She said that a mistake was made and the waterway ended up deeper than it should have been. Elizabeth Brown felt that the commission needed additional technical advice. Ms. Jarboe said that the District Conservationist and an engineer from the Palmyra area had looked at the waterway. When asked, Ms. Jarboe said that the engineer had said he could not get involved in the financial aspect of the issue. When asked by Mr. Aylward, she said that she had talked to the engineer about the construction. During the discussion, Roger Hansen said that he had to determine whether or not a practice met standards and specifications and if removal of the berm was necessary. Mr. Hansen said that it was costly to remove berms and not all of the districts provided cost-share for the removal. Ms. Jarboe felt the district should have made clear that berm removal was not eligible for cost-share.

Ms. Sharp had a copy of Terry Hill's notes. When asked, she said that a list of available practices is sent to cooperators but there is no itemized list of what is not available. Ms. Sharp said that the operator of this farm was a member of the board for years and knew that there was no cost-share available for berm removal and the district employees were of the impression that he was in close touch with the landowner. When asked by the commission, Ms. Jarboe said that there were three waterways and there was more than a quarter of a mile of waterway.

Larry Furbeck made a motion to support the board's decision and deny cost-share for berm removal. Kirby VanAusdall seconded the motion. A vote was called and failing to receive a unanimous vote, a poll vote was taken. Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion. John Aylward abstained. The motion carried with three votes in favor and one abstention.

After some discussion, Kirby VanAusdall made a motion to reconsider the Monroe landowner issue and asked staff to contact the landowner. John Aylward seconded the motion. When asked



## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 9

by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **F. PLANNING**

#### **1. Update on Farm Bill**

Roger Hansen presented the commission with an update of the Farm Bill. Mr. Hansen said that the final rule for Environmental Quality Incentive Program (EQIP) had been completed and the preamble of the draft rule contained language that would set a rate of 50 percent for federal cost-share. He said that many comments had been received with various responses. Mr. Hansen reported that the rule stated that State Conservationists would set the rate for their respective states and he had set the Federal Fiscal Year (FFY)2003 cost-share rate at 50 percent due to the tremendous backlog of requests. He projected that NRCS would have approximately \$100 million in requests for EQIP assistance in Missouri and, nationally, there was \$1.4 billion in backlogged requests.

According to Mr. Hansen, NRCS felt that it was not necessary to have high incentive rates when there was a big backlog. He said that the 50 percent rate would allow more landowners to participate and get more conservation on the land. He felt that some landowners would not want to participate at this lower rate but there was always a possibility that the rate would go up if the amount of backlog lowered and the workload balanced out. Mr. Hansen said that the 50 percent EQIP cost-share rate would be effective July 1 through September 30, 2003. The Missouri NRCS had been allocated \$11.3 million in EQIP financial assistance but had requested an additional \$10 million. This rate will be on specified practices for beginning farmers and farmers who are not limited resource farmers. On other practices, incentive payments will be used in lieu of cost share. Limited resource farmers who qualify will receive 90 percent cost-share with specified limits. To qualify for a limited resource farmer status, there must be less than \$100,000 of farming gross sales; and the farm income, non-farm income, and government payments must fall under the median income level of a family of four in the county where the farmer lives.

Mr. Hansen reported that several practices would not be offered in the FFY2003 EQIP. The list included fence, grade stabilization structure, lined waterway or outlet, pipeline, pond, sediment basin, sinkhole treatment, spring development, trough or tank, and water and sediment control basis. The commission would not have a need to change the rate on practices not included in EQIP. He suggested that the commission do what would be necessary so that the state cost-share was not tied to the federal rates, which would allow the commission to have more control over its own program. He said that NRCS was taking EQIP applications

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 10

currently and ranking them based on the criteria it had. On June 27, the sign-up will end for the current funding (\$11.3 million).

When asked, Mr. Hansen said he did not expect to get his FFY2004 allocation until March or April. Therefore from October 1, 2003, until March or April, he would not have any funds to obligate. He felt that most of the state's funds would be obligated before he received the FFY2004 allocation. When asked, he thought the 50 percent rate would remain the same in FFY2004. Mr. Hansen said that the general Conservation Reserve Program (CRP) sign-up started May 5 and it had been extended to June 13.

### **2. State Cost-share Rates for Fiscal Year (FY)2004**

Ron Redden presented a follow-up to the previous update given by Roger Hansen on the new Farm Bill. Mr. Redden reported that, under the existing rule, the commission's legal counsel believed that state cost-share could not exceed the local federal cost-share rate. In other words, the commission could not allow cost-share greater than 50 percent on practices that NRCS would provide at the 50 percent rate. He informed the commission that, in order to offer cost-share greater than 50 percent on the NRCS specified practices, a rule change would be required. The practices offered by NRCS are similar to the DSL-1 Permanent Vegetative Cover Establishment, DSL-2 Permanent Vegetative Cover Improvement, DSL-4 Terrace Systems, DSL-5 Diversions, DSL-11 Permanent Vegetative Cover-Critical Areas, DFR-4 Forest Plantation, DWP-3 Sod Waterways, and DSP-2 Permanent Vegetative Cover Enhancement.

Mr. Redden briefly reviewed several alternatives that the program staff had identified for the commission's consideration. Since a final rule would take approximately one year to implement, the commission could consider an emergency rule. However, an emergency rule would only be good for six months if the Secretary of State found that it met with Emergency Rule criteria. If the commission wished to pursue the emergency rule, Mr. Redden suggested that it become effective six months prior to the effective date of a regular rule change. He said that these changes would only apply to the regular cost-share program. The SALT Program, because of the way its rules are written, would not be affected by the change in NRCS rates. The commission could also consider proceeding with a rule change and an emergency rule at the same time.

Mr. Redden reported that, after a rule change had been finalized, applications approved after July 1 but had not been started, could be cancelled and a new application could be approved at the higher rate if a board chose to do so. He explained that obligations could not be increased on applications after the practice

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 11

had been started. Mr. Redden felt that changing the cost-share rate any time other than at the beginning of the fiscal year would cause administrative problems and a landowner fairness issue. He said that there was also a possibility that districts would approve so many practices at 50 percent that it could not afford to cancel them all and then approve them at 75 percent.

A second alternative would be to proceed with a rule change only and provide 50 percent cost-share until the final rule was effective. This would probably result in a cost-share rate of 50 percent for all of FY2004 on practices also funded by the federal cost-share program. Mr. Redden pointed out that 50 percent cost-share rates could have an impact on how much of its allocation a district would claim. He also raised the issue that a successful implementation of a 50 percent cost-share program in EQIP could raise questions about the necessity of a 75 percent state cost-share program. He reported that a lower cost-share rate could result in landowners choosing to install practices that receive 75 percent (primarily gully erosion practices) over practices receiving 50 percent whenever possible and result in fewer dollars being spent on sheet and rill erosion. He felt that the 50 percent federal cost-share could also impact the Parks and Soils Sales Tax renewal effort.

Mr. Redden said that, should the commission approve the promulgation of the rule change, the sentence, "State cost-share rates shall not exceed the local federally funded cost-share rates for corresponding practices," would have to be deleted. Mr. Redden felt that any applications remaining in FY2003 could be approved at the 75 percent rate since NRCS did not anticipate awarding any contracts prior to July 1. However, after July 1, the cost-share rate on the specified practices would be 50 percent until a rule change was approved.

When asked, Mr. Redden said that very few of the districts were currently offering 50 percent cost-share on practices designed for sheet and rill erosion. Mr. Redden briefly reviewed alternatives that would not require a rule change. The first would be to reduce the rate to 50 percent and change the commission's written policy of allowing the landowner to receive up to 75 percent of county average or actual costs whichever was less. Mr. Redden briefly reviewed this scenario. A second alternative would be to make no change and not go above the federal cost-share rate.

John Aylward made a motion to change the rule and, at the same time, proceed with an emergency rule. Larry Furbeck seconded the motion.

Eli Mast expressed concern that an emergency rule would create confusion among the districts since it would not be in effect for a full year. Larry Furbeck said that

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 12

he would like to avoid changing rates during the fiscal year. When asked, Harry Bozoian reiterated that the only way to keep the 75 percent rate would be to promulgate the rule change and do the emergency rule effective July 1, 2003, to January 1, 2004. He felt that something could be done to cover the time period between the ending date of the emergency rule and the effective date of the final rule. Mr. Bozoian suggested that the commission should begin the final rule change and check into whether the emergency rule would work in this instance. Sarah Fast clarified that the motion was that the emergency rule would go into effect July 1. It was also clarified that NRCS would drop to 50 percent cost-share on July 1, 2003.

Ben Reed said that his district had approved berm removals that would be completed after July 1, 2003, at the 75 percent rate. He was concerned about the effect this could have. Larry Furbeck felt that Harry Bozoian would need to look into that issue. John Aylward felt that the commission needed to make a decision at this meeting so districts knew what to expect. Larry Furbeck was unsure that an emergency rule would be approved by the Secretary of State.

After some discussion, Scott Totten said that he understood that NRCS would receive funds in February and not November and Roger Hansen would hold off implementing the 50 percent rate until July 1, 2003. Therefore, he would have all of his funds obligated by September. Mr. Totten clarified that, in order to have no lapse in the 75 percent cost-share rate, the commission would need to go with an emergency rule by July 1. Otherwise, de facto, the cost-share rate would drop to 50 percent until such time as a rule was promulgated. Mr. Totten said that issues like Mr. Reed's were legal issues that Mr. Bozoian would need to make a determination regarding them. Mr. Totten felt that the commission could decide what it would like to happen at this meeting but, perhaps, needed additional input and evaluation before moving forward.

When asked, Harry Bozoian answered that he could have additional information for the commission in two weeks. Elizabeth Brown asked that a telephone conference be held in two weeks. Larry Furbeck clarified that the commission needed further information since the commission's variance rule could be a possible alternative.

When asked, Ms. Brown repeated the motion. After some discussion, Sarah Fast pointed out that the rule change and the emergency rule could not start on the same date. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously. Harry Bozoian made the clarification that the emergency rule implementation date had not yet been determined. Larry Furbeck asked that

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 13

staff determine whether or not Roger Hansen had discretion on the implementation date of the NRCS cost-share rate change. Scott Totten said that the funds NRCS was using at the present time were funds he should have had October 1, 2002, but was not appropriated by congress and signed by the president until February. He said that these funds had to be obligated by September 30, 2003, or NRCS would lose them. Sarah Fast said that program staff would double check with Mr. Hansen.

Ron Redden asked the commission whether or not they wanted to continue providing 75 percent cost-share on the practices not offered by NRCS. These included practices for which NRCS was either providing no financial assistance or only incentive payments in lieu of cost-share. On these particular practices, Mr. Redden indicated that an emergency rule or rule change was not required if the commission chose to continue providing landowners 75 percent cost-share. Harry Bozoian felt that he would possibly be able to come up with a process that would allow cost-share to remain at 75 percent if the commission wished to do that. He said that possibly the variance rule could be used. Sarah Fast said that this issue could be a part of the telephone conference meeting.

### **3. FY2004 Cost-share Allocation**

Ron Redden reported that the commission has historically approved the allocation of the FY2004 state cost-share funds around this time of the fiscal year contingent upon the governor signing the appropriations bill. He said that it was anticipated that there would be an additional \$250,000 included in the cost-share appropriation for the upcoming fiscal year because of the reduction in the annual Loan Interest-Share Program (LIS) appropriation already approved by the commission. Mr. Redden said that the FY2004 budget included an appropriation in the amount of \$20,250,000.

Mr. Redden briefly reviewed how the cost-share appropriation was allocated to individual districts. With an expected appropriation of \$20,250,000 for FY2004, the geographic allocation for each district would increase from \$87,719 to \$88,815. He then briefly reviewed the history of the needs portion of the allocation. He said that the National Resources Inventory (NRI) numbers were not available on a county basis and that made it difficult to use them in an allocation formula. Mr. Redden said that, unless directed otherwise, staff would send a letter in the early fall to the districts asking that any additional funds not anticipated to be obligated be returned in order to get it re-allocated.

Larry Furbeck made a motion to increase each district's geographic allocation to \$88,815 and allocate to each district an amount from the Needs Portion that is equal to what they have received since FY1999. Add the remaining \$125,000 to

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 14

the re-appropriated funds and allocate them at the August/September meeting. John Aylward seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **4. FY2004 District Assistance Allocation**

Jim Boschert reported on the FY2004 district assistance allocation, which consisted of the district assistance allocation, matching grant, and district employee benefit grant.

Mr. Boschert reported that the district assistance grant would have \$6.4 million for FY2004 plus \$1.2 million available in the district employee benefit grant. He said that the districts might also have \$250,000 available through the information/education grant if approved through the appropriation process.

He reported that a committee of district supervisors and employees had developed a distribution method for the expansion of \$500,000 for the current fiscal year. The commission decided that districts receiving less than \$44,000 should be brought up to that amount and the matching grant for each district was increased to \$5,000 per district. The remaining \$53,834 was to then be divided among the remaining 60 districts and would amount to \$897 per district.

When asked, Sarah Fast said that staff could have tax revenue projection figures available at the July meeting. It was the consensus of the commission to keep the same distribution method as used in FY2003. Mr. Boschert said that program staff would notify the districts of that decision.

### **5. FY2004 District Employee Benefit Grant**

Jim Boschert reported on the District Employee Benefit Grant. Districts claimed \$154,450 for health insurance in the first quarter of FY2003, \$154,766 in the second quarter, and \$177,007 during the third quarter. The third quarter was 14 percent higher, which was attributed to the new health insurance rates that went into effect January 1. Mr. Boschert projected that the fourth quarter would be similar to the third and estimated that the total amount claimed for FY2003 would be approximately \$663,230.

He reported that the amount claimed for retirement was \$69,965 in the first quarter of FY2003, \$79,130 in the second quarter, and \$72,605 in the third quarter. Mr. Boschert reported that \$72,605 was the amount projected to be

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 15

claimed in the fourth quarter. This amounted to an estimated total for FY2003 of \$294,305 to be claimed for retirement.

The total projected amount for FY2003 for both health insurance and retirement was \$957,535. After deducting this amount from the available funds in the amount of \$1,261,992 a balance of \$304,457 remained. Mr. Boschert reported that the amounts claimed in FY2003 for the District Employee Benefit Grant would exceed that claimed in FY2002. He briefly reviewed how the expenses varied from quarter to quarter for FY2002 and FY2003.

Mr. Boschert said that, in FY2001, district employee salaries totaled \$5,318,865 and increased to \$5,976,685 in FY2002, which was a 13 percent increase. The estimated total amount for FY2003 was \$6,362,801, which would be a 6 percent increase over FY2002.

He estimated that \$858,925 would be claimed for health insurance in FY2004 and \$314,906 for retirement, which totaled \$1,173,831. This would leave \$88,161 in the benefit grant. Program staff felt that the available funds would cover the estimated increases.

When asked, Mr. Boschert said the salary figures he had just reported were gross figures. In response to a question from the commission, he said that program staff noticed that some districts only paid the retirement benefit once year, which was normally in December. Consequently this caused the month of December to reflect high retirement pay out and January low

It was the consensus of the commission to maintain current policy

### **6. FY2004 Information/Education Grant**

Jim Plassmeyer updated the commission on the Information/education (info/ed) Grant program. He reported that the funding for this program had been included in the budget passed by the legislators and sent to the governor for his approval. Mr. Plassmeyer presented the committee's recommendations for proposals.

The first section of the proposal request outlined the program and some of its general requirements. The next section would contain information from the district to assist in the ranking of the proposals. Mr. Plassmeyer said that the district would need to identify the type of info/ed program currently being used and identify the district's mission. The district would need to include a detailed description of the project, the objectives, timeframe to implement, target audience, and how the project would help to meet the district's mission. The

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 16

districts would also need to identify how this project was new and innovative to the district. The conservation partners and how they would be involved would need to be identified in the proposal. The district would also need to state whether or not the partners had been previously involved with the district. The committee suggested that each partner provide a letter of commitment. The districts would need to determine how they would evaluate the project and include an itemized budget.

The next part of the proposal request would list the limitations for the program. Limitations not previously presented to the commission were to allow projects up to three years with an annual review each year with further funding subject to demonstrated progress and applied demonstrations, no research projects would be considered. Mr. Plassmeyer explained that applied demonstrations were demonstrations that were an ongoing educational effort in the district. The committee recommended that out-of-state travel be considered if the training could be implemented into a training regimen for the district.

Mr. Plassmeyer said that the committee was anticipating October 1, 2003, as the date for submission of the first proposals. He said that a training session for the Info/ed Program was planned for the area meetings in August. It was anticipated that proposals would be due in April or May in the future. Program staff felt that the NRCS personnel, University Extension personnel, and program staff should be included in the review and ranking process. The committee also suggested that a member of the commission be involved with the review.

Larry Furbeck made a motion to approve the committee's recommendation for the request for proposals and the program limitations. Kirby VanAusdall seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

Jim Plassmeyer said that the review would last one day. He said that copies of the applications would be mailed out prior to the review committee meeting. John Aylward suggested Philip Luebbering to represent the commission on the review committee. It was suggested that John Aylward act as an alternative commission member.

### **G. REVIEW/EVALUATION – Land Assistance Section**

#### **1. Technical Certification of Cost-share and SALT Conservation Practices**

Gary Baclesse reported on technical issues occurring in several districts. Mr. Baclesse briefly reviewed the cooperative working agreement between NRCS and



## MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION

May 21, 2003

Page 17

the soil and water conservation districts. He reported that NRCS had responsibility for the technical design and certification of cost-share practices. Commission policy and cost-share rules state that a responsible technician is to inspect work in progress to determine that specifications are met. The rules and SALT rules further state that practices must be done according to NRCS technical specifications in the *Field Office Technical Guide*.

Mr. Baclesse reported that, in some instances, district employees had certified practices without NRCS authorization. Improper certification could result in a practice not performing correctly and/or a landowner receiving cost-share when they were not eligible. He said that there had been a few instances of district employees technically certifying a practice when NRCS technical review determined that the practices were not done according to technical specifications. According to commission policy, the district conservationist is the only one that can delegate technical certification to district employees. Mr. Baclesse briefly reviewed different instances that had come to light in various districts. He said that NRCS had, in the past, informed the program office when technical problems had resulted from improper district employee certification of cost-share practices. He said that program staff would not necessarily know whether a district board was directing a district employee to authorize a cost-share claim payment without proper NRCS authorization unless notified.

Mr. Baclesse said that all districts must understand the commission's rules and policy and comply with them. Program staff prepared a memo that outlined the district's responsibilities. He briefly reviewed four points made in the draft memo. There must be written documentation from the NRCS district conservationist to the district board authorizing the technician to be responsible for technically certifying cost-share practices. The district should be considered liable for problems resulting from a non-authorized technician's certification. Cost-share payments could be delayed, denied, or refunded if there was improper or inappropriate district certification of completed practices. Auditors would request documentation for proper NRCS technical certification if district employees signed cost-share forms.

Mr. Baclesse reviewed different alternatives the commission could consider. The commission could provide a variance for all claims inappropriately certified by a district employee. It could request that NRCS do a quality review of all practices certified by a district employee and take appropriate action on those that had known technical issues. The commission could change policy and only allow NRCS to technically certify cost-share practices.

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 18

When asked for his comments, Roger Hansen said that district employees could be trained to competently handle some of the technical work. He said NRCS would like to give the district employees that authority when appropriate. He said that there could be rare occasions when it would be necessary to withdraw the authority but he felt it could work very well. When asked, Mr. Hansen said that, after a district employee had been trained, NRCS would just do spot checks and would retain liability. However, NRCS would not be responsible if someone was willfully not following the policies, trying to take advantage of a situation, had not been delegated any authority, or doing something they for which they had no authority. Mr. Baclesse said that staff was looking for commission direction on what to do with claims that had been inappropriately certified. He said that a memo could be sent to the districts regarding getting the proper certified information in the files at the district level.

Larry Furbeck made a motion to provide a variance for all claims inappropriately certified by a district employee where the commission and NRCS were in agreement and working to resolve technical issues. As specific issues or overpayment were identified as a result of an inappropriate certified claim, the issue would be brought to the commission for appropriate action. John Aylward seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **2. SALT – Approval of 5<sup>th</sup> Call Proposals**

Ken Struempf presented to the commission the proposals for the fifth call agricultural nonpoint source (AgNPS) SALTs and the districts' responses to the SALT AgNPS Technical Review Committee's comments. He said that the committee ranked the 17 watershed proposals submitted, and following the commission's plan, funding is available for 12 projects. He stated that there are no issues that needed to be addressed by the commission with the 12 projects recommended for approval.

The recommended watershed projects were from Maries, Osage, Knox, Harrison, Macon, Daviess, Ozark, Caldwell, Laclede, Shelby, Warren, and Cass Counties. They ranged from six to seven years in length and from 17,037 acres to 81,772 acres. They all asked for the full \$750,000 grant with the exception of Daviess County, which asked for \$455,621. The personnel costs varied from \$33,000 for Daviess to \$248,710 for Laclede and Macon Counties. Mr. Struempf said that most of the projects had substantial partner commitment ranging from \$350,000 to \$4,000,000. All of the projects that crossed over county lines had a

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 19

Memorandum of Agreement outlining responsibilities of each participating district. He briefly reviewed the history of the applications up to final approval.

John Aylward made a motion to approve a SALT grant for Caldwell, Cass, Daviess, Harrison, Knox, Laclede, Macon, Maries, Osage, Ozark, Shelby, and Warren. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **3. Cost-share – Monthly Cost-share Usage and Fund Status Report**

Noland Farmer reported that districts had obligated 89 percent or \$22.8 million in the first three quarters of FY2002 as compared to 89 percent or \$21.2 million in the first three quarters of FY2003. For the same period, districts claimed 56 percent or \$14.3 million in FY2002 and 58 percent or \$13.9 million in FY2003.

As of May 20, 2003, \$23.8 million had been allocated for use in FY2003. Program staff projected that \$20.5 million would be claimed. Staff also projected that \$2.5 million would be claimed during May. As of May 20, claims were \$1.5 million below projection. Approximately \$15.6 million was claimed at this time in FY2002 and, in FY2003, \$16 million in claims had been received to date.

## **H. REQUESTS**

### **1. District Assistance Section**

#### **a. Supervisor Appointments – McDonald SWCD**

Josh Poynor reported that the McDonald Soil and Water Conservation District Board of Supervisors asked for approval of Donald Boyer to fill the remainder of the term of John Cook as supervisor who had passed away.

Larry Furbeck made a motion to approve the request. Kirby VanAusdall seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

#### **b. Nodaway SWCD: Matching Grant Request**

Jim Plassmeyer presented a request from Nodaway SWCD to purchase a seven cubic yard dirt scraper with matching grant funds. According to current policy, dirt scrapers are limited to six cubic yards. It was felt that larger scrapers would be in competition with local contractors. The

## MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION

May 21, 2003

Page 20

district said that landowners with high horse power tractors were causing damages to its currently owned five-yard scraper.

After some discussion about the size, Kirby VanAusdall made a motion to change current policy and allow seven cubic yard scrapers to be purchased with matching grant funds. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### c. **Lafayette SWCD: Matching Grant Request**

Jim Plassmeyer presented a request from Lafayette SWCD to purchase a Global Positioning System (GPS) system and laser range finder with matching grant funds. Mr. Plassmeyer briefly reviewed the history of similar requests. Lafayette SWCD stated that the GPS system would be used to help plot drainage acres on structures, tile terrace systems, and waterways. The district said that it would also assist in plotting locations of practices in ArcView, measuring lengths and widths of practices and determining area and measuring acres for CRP. The GPS system would also provide permanent location points of conservation practices and help to obtain more accurate information and reduce errors.

The district stated in its letter that the laser range finder would be used to increase efficiency by allowing quick and accurate measurements of tile and terrace lengths. The range finder could be used in staking filter strips and riparian buffer areas and measuring and determining terrace spacing.

When asked, Steve Oetting with the Lafayette SWCD said that the cost of the two items was \$1900 or \$1500 for the GPS system and \$400 for the laser range finder.

Kirby VanAusdall made a motion to approve the board's request and allow matching grant funds to be used to purchase a GPS system and a laser range finder and add both items to the list of eligible matching grant items. John Aylward seconded the motion.

When asked, Mr. Oetting briefly reviewed the benefits of the two tools. He said that the laser range finders are extremely accurate and the GPS system was accurate within two or three feet. Roger Hansen said that the GPS system was the same as NRCS used and felt that the systems were very cost efficient. When asked by the chair, John Aylward, Elizabeth

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 21

Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **d. Cass, Ozark, Ripley, Miller, and Worth SWCD: Second Budget Revision**

Jim Boschert presented a request from the following five districts asking for second budget revisions. Cass SWCD asked to transfer \$1,500 from administrative expenses grant to the management services grant and \$500 from the administrative expenses grant to the technical services grant. This request was to allow the district to pay annual leave for one employee and give another employee a raise. John Aylward made a motion to approve the request. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

Ozark SWCD asked to transfer \$2,300 from the administrative expenses grant to the management services grant. The district stated that more funds than expected were needed in the management services grant and fewer funds than expected were used from the administrative expenses grant. Larry Furbeck made a motion to approve the request. John Aylward seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

Worth SWCD asked to transfer \$850 from the technical services grant to the administrative expenses grant. The district stated that the district technician was on leave without pay longer than initially anticipated. The funds were needed to repair or replace the district's printer and purchase an adding machine. John Aylward made a motion to approve the request. Kirby VanAusdall seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

Miller SWCD asked to transfer \$669.72 from the technical services grant to the administrative expenses grant. The district stated that the district technician resigned due to health reasons and another won't be hired until after the beginning of the new fiscal year. Larry Furbeck made a motion to approve the request. Kirby VanAusdall seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 22

Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

Ripley SWCD asked to transfer \$459 from the technical services grant to the management services grant and \$240 from the administrative expenses grant to the management services grant. The district stated that its district technician was working fewer hours and extra funds were needed. Larry Furbeck made a motion to approve the request. John Aylward seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **2. Land Assistance Section**

#### **a. SALT**

##### **1. Greene SWCD: Extension of the Upper Little Sac AgNPS Project**

Ken Struempf presented an appeal from Greene SWCD for a one-year full extension for the Upper Little Sac pilot AgNPS SALT project. He said that program staff had granted the district an extension, but limited the approval to the current commission approved eligible practices and provided salary and administrative costs accordingly. The district was entering an appeal with regard to the limited extension.

Mr. Struempf briefly reviewed the history for this project. He said that this project offered two practices that were not currently eligible for any of the new SALT projects. This project was originally approved as a five-year project scheduled to end July 2002. After asking for a two-year extension, the district was notified in October 2001 that a one-year extension had been approved and staff would evaluate the progress before approval of the seventh year would be granted. Mr. Struempf reported that the district had accomplished the minimum goal on all practices with the exception of the riparian forest buffer. He briefly reviewed the project's progress since the first extension was approved.

The district's appeal included implementation of an additional five livestock watering systems that included ten tanks and 8,000 feet of pipeline, seeding of an additional 80 acres of pasture, and implement a total of 4,000 feet of riparian protection.

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 23

Following current commission policy, program staff granted a limited extension for the implementation of the remaining 4,000 feet of the Riparian Forest Buffer practice. The approval had a budget of \$15,000 that included \$12,000 for cost-share incentives and \$3,000 for personnel expenses.

Mr. Struempf reviewed the reasons for the program staff's decision. He said that staff did not have the authority to include certain practices in the extension since those practices had not been approved by the commission for any recent projects. The district said that there was possible landowner interest in the watershed and an extension would provide an opportunity for additional cost-share practices to be completed. Since the district had not claimed its full cost-share allocation in recent years, staff felt similar regular cost-share practices could be utilized for those practices landowners might want to install in the watershed. To date, the district had spent \$217,204.97 in personnel and administrative costs and \$135,093.38 in cost-share incentive since the beginning of the project.

Will Rhodes with the Greene SWCD updated the commission on the project. Mr. Rhodes said that there was currently \$41,273 about to be claimed. This would put the project at approximately \$47,000 total claimed for this year, which was the best year as yet. He said the district would like to continue what it had been doing for one more year because they felt that it had been building. Larry Furbeck pointed out that the project had met its earlier goals except for the riparian forest buffers and the two water tank systems. Mr. Rhodes said that the water systems were used to introduce landowners to rotational grazing. He said that 20 grazing systems had been installed and half of those landowners had gone on to grazing school. Sarah Fast explained that this project was one of the original pilot projects and had been able to use practices that no other projects were able to use. Mr. Rhodes said that originally there was some confusion as to how many years could be requested and they only asked for five years. When asked, Mr. Struempf said that there were potentially ten other projects that could eventually ask for an extension. He said that staff had approved the seventh year based on current eligible SALT practices, and now the district is asking for a full extension to include the pilot practices.

## MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION

May 21, 2003

Page 24

Larry Furbeck made a motion to follow commission policy and support the limited one-year extension granted. The extension included a total of \$15,000 to cover the costs associated with implementation of 4,000 feet of N391. Also, encourage the district to make effective use of the DSP-3, DSL-1, DSL-2, and DSP-2 practices offered through regular cost-share program to assist landowners interested in the N123 and N512 pilot practices. Kirby VanAusdall seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **2. Greene SWCD: Budget Request to Increase Personnel Funding for the Middle Little Sac AgNPS SALT Project**

Davin Althoff presented a request from Greene SWCD for an increase in personnel funding for the Middle Little Sac AgNPS SALT project. Mr. Althoff reported that final approval for the Middle Little Sac AgNPS SALT project was awarded on November 27, 2000, to begin implementation on January 1, 2001. The budget was approved for \$259,300 in personnel, which was prior to the commission decision limiting personnel to \$248,710 for a seven-year project. On July 3, 2001, the Greene SWCD submitted a copy of a revised long-term budget increasing the personnel grant from \$259,300 to \$285,500, decreasing the management grant from \$36,200 to \$29,500, and decreasing the incentive grant from \$410,000 to \$390,500. Program staff overlooked the revision because of its heavy workload and the fact that a letter indicating the revision was not received. Mr. Althoff informed the commission of the current personnel policy for AgNPS SALT Projects. This policy has a limit for personnel funding with an average of \$35,530 per year or \$248,710 for seven years. The requested increase exceeded the yearly limit by approximately \$4,500 per year.

As of December 31, 2002, the Middle Little Sac AgNPS SALT project was at 23 percent of reaching its project goals with five years remaining in the life of the project, which is well above the optimum amount of progress. Program staff felt that the project showed a good possibility that its goals could be accomplished in a shorter project length. Should the project's length be shortened from seven to six years, the amount of personnel funding approved



## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 25

with its final application or \$259,300 would meet its staffing needs.

When asked, Deneen Jenkins, District Manager, explained that this project was one of the first projects and there were no limits put on it. She said that the district had been operating on this new budget for two years and, either the project would have to be cut back or salaries would have to be reduced if the budget were lowered to \$259,000. Ms. Jenkins said that limitations were not placed on the first or second SALT projects. She said that cost-share had experienced a dramatic increase.

Tom Hansen, supervisor for Greene SWCD, reiterated that the project had been operating on this budget for two years. He felt that the budget could have been adjusted if the issue had been brought up two years ago. Sarah Fast apologized for missing the fact that the budget exceeded the limit by \$10,590. She said that, if the commission wanted to stay within the personnel cost limits, the commission could consider reducing the life by one year. Mr. Hansen said that suggestion was not best solution but was better than being forced to reduce salaries. Larry Furbeck expressed concern that the burden was being put on the district rather than accepting some of the burden. Ken Struempf explained that the commission had approved the district at \$259,000 for a seven-year project and, approximately two years ago the district requested \$285,000. He said that the request should have been taken to the commission at that time but it was overlooked. If the life of the project were lowered to six years, salaries would remain close to what they have been under the \$285,000 that was requested.

After much discussion, John Aylward made a motion to maintain the personnel budget of \$259,000 for the project and offer the district the opportunity to reduce the project to a six-year project. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 26

### **3. Holt SWCD: Exceed the \$8,250 Limit on DWC-1 Structures in Squaw Creek AgNPS SALT Project**

Kevin Scherr presented a request from the Holt SWCD asking to exceed the current \$8,250 limit on four DWC-1 Water Impoundment Reservoir practices in the Squaw Creek AgNPS SALT project. The district was approved to use a bid process on the structures. Mr. Scherr said that the bid process had a history of building structures at approximately 72 percent of the estimated cost. He briefly reviewed the final costs of some structures that used the bid process.

Mr. Scherr reported that U.S. Fish and Wildlife would provide an additional 20 percent incentive for stabilization structures and for the incorporation of filter strips around the perimeter of the structure in the Squaw Creek watershed. The district did not want to use EQIP funds to build the structures since this agency would only match non-federal funds.

Larry Furbeck said that the past reservoirs that were allowed to exceed the limit had an extensive analysis as to what would have been necessary to build a smaller structure. Mr. Furbeck expressed concern that the commission did not have any more detailed information on the current request. Mr. Scherr pointed out that these structures were in the same watershed as the ones approved to exceed the maximum last year.

Larry Furbeck made a motion to deny the request. John Aylward seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **4. Pemiscot SWCD: Variance on April 1<sup>st</sup> Application Deadline for Pest Management**

Kevin Scherr presented a request from the Pemiscot SWCD for cost-share on the pest management incentive practice for this growing season with four landowners and operators that missed the April 1 deadline to sign an application. Commission policy requires that the board approve the application prior to April 1 to be eligible for the upcoming growing season. The districts were informed of the new policy by a memo dated June 4, 2002. Mr. Scherr briefly reviewed the background of this decision.

## MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION

May 21, 2003

Page 27

Program staff became aware that the district had been working with several landowners to complete a pest management plan during a routine visit on April 16. No cost-share applications had been prepared or approved at that time. The district indicated that all of the plans had been written and the landowners and operators were following the plan hoping to receive cost-share for this growing season. Mr. Scherr said that the district was offering \$7.50 per acre for the incentive practice.

When asked by Roger Hansen, Mr. Scherr said that the commission made a decision earlier this spring to allow operators to apply for cost-share on the practice at issue. He said the memo was sent March 25 to the districts. He also pointed out that the district allowed \$7.50 per acre rather than the \$30 limit.

John Aylward made a motion to approve the request. Larry Furbeck seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **b. Cost-share**

#### **1. Clay SWCD: Assistance from the Commission in Addressing Problems with Contractors Doing Practices for the 75 percent Cost-share**

Ron Redden presented a request from the Clay SWCD for assistance in preparing a form for use in preventing possible fraud. The board was concerned that a contractor could provide landowners with a bill for work completed but only require the landowner to pay 75 percent of that amount. The result of this would be that the practice would be installed at no cost to the landowner. Mr. Redden said that several districts were concerned with this problem in their county. It was indicated that while the problem is being discussed more frequently, it was not known if the occurrence was becoming more frequent or if districts were only becoming more open in their discussion of it. He also said that this activity is difficult to prove and document the intent because the guilty party usually must incriminate themselves for the issue to come to light.

## MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION

May 21, 2003

Page 28

It was noted that one method to reduce the occurrence of this activity would be to reduce the county average or cost-share rates to the point that it was not economically feasible to do the work for the cost-share amount; however, this would hurt the majority of landowners and the vast majority are following the commission's policies and rules. Requiring cancelled checks would also make this more difficult but would not eliminate the problem. Mr. Redden said that the Attorney General's staff recommended that staff include additional language to the cost-share documents in an attempt to deter cost-share fraud. He informed the commission of the recommended language. Mr. Bozoian asked that he review the wording before the document is finalized.

It was the consensus of the commission to take the suggestion of the Attorney General's Office and program staff.

### **2. Chariton SWCD: Use State Cost-share to Address Erosion on Land Enrolled in Conservation Reserve Enhancement Program (CREP) Dunklin SWCD: Cost-share to Replace a Failed Structure**

Ron Redden presented a request from Chariton SWCD for approval of cost-share assistance to address an erosion problem on acreage currently enrolled in CREP. Mr. Redden reviewed the history of this issue.

The board stated that the landowner tried to control the gully with grass seeding that failed. Mr. Redden said that NRCS indicated that a structure was needed to control the gully. It was indicated that the gully probably developed after enrollment in CREP. However, landowners that receive CREP funds also receive a maintenance payment per acre to maintain the field during its enrollment. Mr. Redden said that some districts asked whether they could use state cost-share for fence and water tanks due to a new regulation that allows CRP acreage to be hayed and grazed during certain months of the year. He felt this type of request would become more frequent.

Kirby VanAusdall made a motion to maintain current policy. Larry Furbeck seconded the policy. Brian Sturm, District Technician, said that part of the field had been seeded in filter strips in 1999. He said that there were gullies that cut through the

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 29

filter strips. He reported that the County Commissioners of Linn and Chariton Counties are aware of the severity of the gullies and agreed to support the project. The city of Marceline had committed \$8,000 or 25 percent of the total cost of the project. Mr. Sturm provided some pictorial background on the area. He said that the district proposed to use basins and underground tile outlets to help solve the problems. FSA would pay 50 percent cost-share to repair the filter strips at an estimated cost of \$2,500. The landowner would provide 25 percent of the cost or an estimated \$7,000 and, if approved, state cost-share for an estimated \$11,500.

Elizabeth Brown said that the project would have definite benefits for fish and wildlife. Roger Hansen said that, if approved for EQIP, it would have to be on a competitive basis. He thought that matching federal funds on the same property would be an issue. When asked, Bob Miller said that Missouri Department of Conservation provided additional cost-share on CREP for seedings, but not for gully erosion. Mr. Sturm said that it was his understanding that the land had been in pasture until the mid-1980s.

When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **I. FOLLOW-UP – STE. GENEVIEVE SWCD: REQUEST TO USE THE DSP-31 SINKHOLE PRACTICE) THROUGHOUT THE COUNTY RATHER THAN IN THE LIMITED AREA APPROVED**

Marcy Oerly presented a follow-up request from the Ste. Genevieve SWCD to expand the boundaries of the Sinkhole Improvement Practice or DSP-31. She reviewed the history of this practice.

Ms. Oerly said that the district had previously been denied expanding the boundary set by the commission. The district manager had told the commission at that time that there was a sinkhole problem outside of the boundary and some landowners had been denied cost-share although some owned land that spanned the boundary. In April 1995, the commission approved development of specifications for the DSP-31 practice for specific geologic areas of Perry, Ste. Genevieve, and Cape Girardeau Counties. A geologist that

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 30

specialized in sinkholes said that, in this area, the water that drained into these sinkholes ran into shallow cave systems, which then drained out as surface water at different locations. He also stated that the sinkholes in this area were unique because they were located in soil that was heavily cropped and gully erosion problems occurred around the sinkholes. In January 2002, the commission directed staff to research the possibility of expanding the boundaries for the DSP-31 to encompass all of Ste. Genevieve County. The director of the Geological Survey and Resource Assessment Division of DNR stated in a letter dated March 12, 2002, that the DSP-31 seemed to be successfully reducing sediment erosion and allowed farmers to utilize a larger portion of their fields for crop production. The director also said that it was not recommended to use the sinkhole drainage structures in areas of the state where deep karst systems were located and where springs normally had good water quality. Ms. Oerly reported that Ste. Genevieve SWCD had submitted 14 DSP-31 claims, Cape Girardeau SWCD had submitted one claim, and Perry SWCD had submitted 307 claims.

When asked, Sarah Fast said that the cost could be fairly significant but it would come out of the district's regular cost-share allocation. Therefore, the board would have to determine how many of its cost-share dollars the board would want to spend on this practice. She also said that some of the counties could be fairly high usage areas because there was cropland around the sinkholes. Roger Hansen said that these were unique problems. He said that the districts got involved because overflow from the sinkholes created gullies in the field. Mr. Hansen said that this was a good conservation practice in the shallow karst topography areas.

John Aylward made a motion to expand the DSP-31 boundaries to include all of Ste. Genevieve, Cape Girardeau, and Perry Counties after seeking approval from the Geological Survey and Resource Assessment Division. Kirby VanAusdall seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously.

### **J. NRCS REPORT**

Roger Hansen said that he had found the report on the Roberta Jarboe and the waterway was approximately one-half mile long. He said he would send a memo to the commission with a technical report with the findings, etc., on this issue.

Mr. Hansen said that, at the December 2002 commission meeting, Cully Cowgill appeared before the commission on behalf of his mother and discussed a large structure located in the northern part of the state that was leaking. Mr. Hansen said that it was still leaking. NRCS had completed an engineering investigation and the core trench was not functioning the way it should. Mr. Hansen also said that the right people were not onsite for the technical decisions that had to be made when the core trench was being dug. He

## **MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 31

said he had informed the landowner that NRCS was liable for what had happened and would work with them to make the corrections and rebuild it the way it should have been in the first place.

### **K. STAFF REPORT**

Sarah Fast reported that a letter from Roger Hansen regarding the availability of the NRI numbers was included in the packet material. Also included was a letter from Wright County regarding the DFR-5 fencing rates that were lower than the county average cost. She said that the commission had recently heard the same issue. A copy of program staff's response to the district was also included.

Ms. Fast introduced Theresa Mueller who was going to be taking over the duties of Program Secretary. Alice Schultz would be taking over new duties working more with fiscal and record keeping. She reported that Teresa Philbert had gotten married and moved to England and Brad Berhorst had taken a full-time position with the National Guard. Anne Koenigsfeld had been on family medical leave after having a baby and she decided not to return to work at this time.

Bill Wilson reported that Area Meetings were being planned for weeks of August 11 and 18. He said that the meetings would start at 10:00 a.m. and end at approximately 2:00 p.m. These meetings provide additional training opportunities and sharing of information.

Mr. Wilson distributed the most recent edition of *Missouri Resources* magazine that contained an article written by Jim Boschert on the districts' equipment rental programs.

### **L. DATE OF NEXT MEETINGS**

The July meeting was scheduled for Wednesday, July 16, 2003, at the DNR Conference Center in Jefferson City, Missouri.

### **M. CLOSED SESSION**

Larry Furbeck made a motion to go into closed session pursuant to Section 610.021, RSMo 2000 (as amended), to discuss legal, confidential, or privileged matters under §610.021(1), RSMo; personnel actions under §610.021(3), RSMo; personnel records or applications under §610.021(13), RSMo; audit issues under §610.021(17), RSMo; or records which are otherwise protected from disclosure by law under

**MINUTES, MISSOURI SOIL & WATER DISTRICTS COMMISSION**

May 21, 2003

Page 32

§610.021(14). Kirby VanAusdall seconded the motion. When asked by the chair, John Aylward, Elizabeth Brown, Larry Furbeck, and Kirby VanAusdall voted in favor of the motion and the motion carried unanimously

**N. ADJOURNMENT**

After reconvening in open session, Kirby VanAusdall moved the meeting be adjourned. Larry Furbeck seconded the motion. Motion approved by consensus at 4:45 PM.

Respectfully submitted,

Sarah E. Fast, Director  
Soil and Water Conservation Program

Approved by:

Elizabeth Brown, Chairman  
Missouri Soil & Water Districts Commission

/as